

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 23-CR-264-GKF
)	
DANIEL LAWRENCE CHARBA,)	
)	
Defendant.)	

**MOTION TO WITHDRAW UNOPPOSED MOTION
FOR CONTINUANCE OF SCHEDULING ORDER**

Allen M. Smallwood, counsel for the above-named defendant, Daniel Lawrence Charba, moves to withdraw the unopposed motion for continuance (Dkt. 12) of this Court's scheduling order (Dkt. 9) filed of record on September 5, 2023. In support of this Motion counsel states:

1. This defendant is charged in a two-count indictment with Unlawfully Making a Destructive Device (COUNT ONE) in violation of 26 U.S.C. §§ 5861(f), 5871, and 5822; and, Possession of an Unregistered Destructive Device in violation of 26 U.S.C. §§ 5861(d), and 5871, with a forfeiture allegation per 26 U.S.C. § 5872, and 28 U.S.C. § 2461 (Unlicensed Firearms Forfeiture) (COUNT TWO). The defendant is free on pretrial release, with a pretrial conference/motion hearing scheduled for October 3, 2023, at 9:30 a.m. Jury trial is currently scheduled for October 23, 2023, at 9:30 a.m.

2. This defendant is also charged in State of Oklahoma v. Daniel Charba, Tulsa County Case No. CF-2023-1353, with thirteen counts of Unlawfully Manufacture Explosives (Counts 1 – 13 – Felonies), in violation of 21 O.S. § 1767.1, based upon the identical facts and circumstances as alleged in this current federal indictment.

3. The evidence in both the cases reference in Paragraph Nos. 1 and 2 above are identical and the witnesses will be identical.

4. A preliminary hearing was scheduled in the State felony matter for Friday, September 8, 2023. A motion for continuance of the scheduling order in this federal case (Dkts. 12 and 9, respectively) was filed as a result of both cases being pursued causing a significant conflict of defense tactics with the State case and the federal case continuing at the same time.

5. Counsel learned on September 7, 2023, that the State prosecutor “intended to dismiss the State case” at the calling of the preliminary hearing on September 8, 2023. The dismissal of the State case did occur on September 8, 2023, rendering the basis for the motion for continuance of this federal case’s scheduling order (Dkts. 12 and 9, respectively) no longer viable.

6. Counsel for the defendant, Daniel Lawrence Charba, therefore withdraws the unopposed motion for continuance (Dkt. 12) and will be prepared to comply with the current scheduling order (Dkt. 9) which has a change of plea/pretrial set before this Court on Tuesday, October 3, 2023.

7. Counsel has received a plea agreement which is acceptable to the defendant and will be presented along with a petition to enter plea of guilty to this Court within 48 hours of October 3, 2023.

WHEREFORE, counsel seeks an order of this Court withdrawing counsel’s unopposed motion for continuance (Dkt. 12) as stated above.

s/ Allen M. Smallwood
ALLEN M. SMALLWOOD OBA #8308
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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2023, a true and correct copy of the above and foregoing was electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a notice of electronic filing to the following ECF registrants:

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s/ Allen M. Smallwood
ALLEN M. SMALLWOOD